

COMMITTEE ON ELECTIONS
SENATE AMENDMENTS TO S.B. 1288
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Repeal

3 Section 16-449, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 16, chapter 4, article 4, Arizona Revised Statutes, is
5 amended by adding a new section 16-449, to read:

6 16-449. Required tests; logic and accuracy; notice; accuracy
7 board; violation; classification

8 A. ALL ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS SHALL BE
9 THOROUGHLY TESTED AT THE CONCLUSION OF ALL MAINTENANCE AND PROGRAMMING.
10 TESTS SHALL BE SUFFICIENT TO DETERMINE THAT THE VOTING SYSTEM IS PROPERLY
11 PROGRAMMED, THE ELECTION IS CORRECTLY DEFINED ON THE VOTING SYSTEM AND ALL
12 OF THE VOTING SYSTEM INPUT, OUTPUT AND COMMUNICATION DEVICES ARE WORKING
13 PROPERLY.

14 B. NOT MORE THAN TWENTY-FIVE DAYS BEFORE THE COMMENCEMENT OF EARLY
15 VOTING AS PROVIDED IN SECTION 16-542, THE COUNTY OFFICER IN CHARGE OF
16 ELECTIONS SHALL PUBLICLY TEST THE AUTOMATIC TABULATING EQUIPMENT TO
17 ASCERTAIN THAT THE EQUIPMENT WILL CORRECTLY COUNT THE VOTES CAST FOR ALL
18 OFFICES AND ON ALL MEASURES. IF THE BALLOTS TO BE USED AT THE POLLING
19 PLACE ON ELECTION DAY ARE NOT AVAILABLE AT THE TIME OF THE TESTING, THE
20 COUNTY OFFICER IN CHARGE OF ELECTIONS MAY CONDUCT AN ADDITIONAL TEST NOT
21 MORE THAN TEN DAYS BEFORE ELECTION DAY AND SHALL PROVIDE PUBLIC NOTICE OF
22 THE TIME AND PLACE OF THE TEST AT LEAST FORTY-EIGHT HOURS BEFORE THE TEST
23 BY PUBLICATION ON THE COUNTY WEBSITE, ON THE COUNTY OFFICER IN CHARGE OF
24 ELECTIONS' WEBSITE OR ONCE IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION
25 IN THE COUNTY. IF THE APPLICABLE WEBSITE BECOMES UNAVAILABLE OR IF THERE
26 IS NO NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY, THE NOTICE MUST BE

1 POSTED IN AT LEAST FOUR CONSPICUOUS PLACES IN THE COUNTY. AT THE TIME OF
2 QUALIFYING, THE COUNTY OFFICER IN CHARGE OF ELECTIONS MAY GIVE WRITTEN
3 NOTICE OF THE TIME AND LOCATION OF THE PUBLIC PREELECTION TEST TO EACH
4 CANDIDATE WHO IS QUALIFIED AS A CANDIDATE FOR THAT ELECTION AND OBTAIN A
5 SIGNED RECEIPT THAT THE NOTICE HAS BEEN GIVEN. THE SECRETARY OF STATE
6 SHALL GIVE WRITTEN NOTICE TO EACH STATEWIDE CANDIDATE AT THE TIME OF
7 QUALIFYING OR IMMEDIATELY AT THE END OF QUALIFYING THAT THE VOTING
8 EQUIPMENT WILL BE TESTED AND ADVISE EACH CANDIDATE TO CONTACT THE COUNTY
9 OFFICER IN CHARGE OF ELECTIONS AS TO THE TIME AND LOCATION OF THE PUBLIC
10 PREELECTION TEST. AT LEAST THIRTY DAYS BEFORE THE COMMENCEMENT OF EARLY
11 VOTING AS PROVIDED IN SECTION 16-542, THE COUNTY OFFICER IN CHARGE OF
12 ELECTIONS SHALL SEND WRITTEN NOTICE BY CERTIFIED MAIL TO THE COUNTY PARTY
13 CHAIRPERSON OF EACH POLITICAL PARTY AND TO ALL CANDIDATES FOR OTHER THAN
14 STATEWIDE OFFICE WHOSE NAMES APPEAR ON THE BALLOT IN THE COUNTY AND WHO DID
15 NOT RECEIVE WRITTEN NOTIFICATION FROM THE COUNTY OFFICER IN CHARGE OF
16 ELECTIONS AT THE TIME OF QUALIFYING THAT STATES THE TIME AND LOCATION OF
17 THE PUBLIC PREELECTION TEST OF THE AUTOMATIC TABULATING EQUIPMENT. AN
18 ACCURACY BOARD SHALL CONVENE, AND EACH MEMBER OF THE ACCURACY BOARD SHALL
19 CERTIFY TO THE ACCURACY OF THE TEST. FOR THE TEST, THE ACCURACY BOARD MAY
20 DESIGNATE ONE MEMBER TO REPRESENT THE BOARD. THE TEST SHALL BE OPEN TO
21 REPRESENTATIVES OF THE POLITICAL PARTIES, THE PRESS AND THE PUBLIC. EACH
22 POLITICAL PARTY MAY DESIGNATE ONE PERSON WITH EXPERTISE IN THE TECHNOLOGY
23 FIELD OR ELECTION MANAGEMENT SYSTEMS OR ELECTIONS PROCEDURES WHO SHALL BE
24 ALLOWED IN THE CENTRAL COUNTING ROOM WHEN ALL TESTS ARE BEING CONDUCTED AND
25 WHEN THE OFFICIAL VOTES ARE BEING COUNTED. THE DESIGNEE MAY NOT INTERFERE
26 WITH THE NORMAL OPERATION OF THE ACCURACY BOARD.

27 C. FOR ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS CONFIGURED TO
28 TABULATE VOTE BY MAIL BALLOTS AT A CENTRAL OR REGIONAL SITE, THE PUBLIC
29 TESTING SHALL BE CONDUCTED BY PROCESSING A PREAUDITED GROUP OF BALLOTS
30 PRODUCED SO AS TO RECORD A PREDETERMINED NUMBER OF VALID VOTES FOR EACH
31 CANDIDATE AND ON EACH MEASURE AND TO INCLUDE ONE OR MORE BALLOTS FOR EACH
32 OFFICE THAT HAS ACTIVATED VOTING POSITIONS IN EXCESS OF THE NUMBER ALLOWED

1 BY LAW IN ORDER TO TEST THE ABILITY OF THE AUTOMATIC TABULATING EQUIPMENT
2 TO REJECT SUCH VOTES. IF ANY ERROR IS DETECTED, THE CAUSE SHALL BE
3 CORRECTED AND AN ERRORLESS COUNT SHALL BE MADE BEFORE THE AUTOMATIC
4 TABULATING EQUIPMENT IS APPROVED. THE TEST SHALL BE REPEATED AND ERRORLESS
5 RESULTS ACHIEVED IMMEDIATELY BEFORE THE START OF THE OFFICIAL COUNT OF THE
6 BALLOTS AND AGAIN AFTER THE COMPLETION OF THE OFFICIAL COUNT. THE PROGRAMS
7 AND BALLOTS USED FOR TESTING SHALL BE SEALED AND RETAINED UNDER THE CUSTODY
8 OF THE ACCURACY BOARD.

9 D. FOR ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS CONFIGURED TO
10 INCLUDE ELECTRONIC OR ELECTROMECHANICAL TABULATION DEVICES THAT ARE
11 DISTRIBUTED TO THE PRECINCTS OR VOTE CENTERS, ALL OR A SAMPLE OF THE
12 DEVICES TO BE USED IN THE ELECTION SHALL BE PUBLICLY TESTED. IF A SAMPLE
13 IS TO BE TESTED, THE SAMPLE SHALL CONSIST OF A RANDOM SELECTION OF AT LEAST
14 FIVE PERCENT OR TEN OF THE DEVICES FOR AN OPTICAL SCAN SYSTEM, WHICHEVER IS
15 GREATER. FOR TOUCHSCREEN SYSTEMS USED FOR VOTERS HAVING A DISABILITY, A
16 SAMPLE OF AT LEAST TWO PERCENT OF THE DEVICES MUST BE TESTED. THE TEST
17 SHALL BE CONDUCTED BY PROCESSING A GROUP OF BALLOTS, CAUSING THE DEVICE TO
18 GENERATE RESULTS FOR THE BALLOTS PROCESSED AND COMPARING THE RESULTS
19 GENERATED TO THE RESULTS EXPECTED FOR THE BALLOTS THAT ARE PROCESSED. THE
20 GROUP OF BALLOTS SHALL BE PRODUCED SO AS TO RECORD A PREDETERMINED NUMBER
21 OF VALID VOTES FOR EACH CANDIDATE AND ON EACH MEASURE AND TO INCLUDE FOR
22 EACH OFFICE ONE OR MORE BALLOTS THAT HAVE ACTIVATED VOTING POSITIONS IN
23 EXCESS OF THE NUMBER ALLOWED BY LAW IN ORDER TO TEST THE ABILITY OF THE
24 TABULATING DEVICE TO REJECT SUCH VOTES.

25 E. IF ANY TESTED TABULATING DEVICE IS FOUND TO HAVE AN ERROR IN
26 TABULATION, IT SHALL BE DEEMED UNSATISFACTORY. FOR EACH DEVICE DEEMED
27 UNSATISFACTORY, THE ACCURACY BOARD SHALL TAKE STEPS TO DETERMINE THE CAUSE
28 OF THE ERROR, SHALL ATTEMPT TO IDENTIFY AND TEST OTHER DEVICES THAT COULD
29 REASONABLY BE EXPECTED TO HAVE THE SAME ERROR AND SHALL TEST A NUMBER OF
30 ADDITIONAL DEVICES SUFFICIENT TO DETERMINE THAT ALL DEVICES ARE
31 SATISFACTORY. ON DEEMING ANY DEVICE UNSATISFACTORY, THE ACCURACY BOARD MAY

1 REQUIRE ALL DEVICES TO BE TESTED OR MAY DECLARE THAT ALL DEVICES ARE
2 UNSATISFACTORY.

3 F. IF THE OPERATION OR OUTPUT OF ANY TESTED TABULATION DEVICE IS IN
4 ERROR, SUCH AS SPELLING OR THE ORDER OF CANDIDATES ON A REPORT, THAT ERROR
5 SHALL BE REPORTED TO THE ACCURACY BOARD. THE ACCURACY BOARD SHALL THEN
6 DETERMINE IF THE REPORTED PROBLEM WARRANTS DEEMING THE DEVICE
7 UNSATISFACTORY.

8 G. AFTER TESTING IS COMPLETED UNDER THIS SECTION, THE ACCURACY BOARD
9 OR ITS REPRESENTATIVE, THE REPRESENTATIVES OF THE POLITICAL PARTIES, AND
10 THE CANDIDATES OR THEIR REPRESENTATIVES WHO ATTENDED THE TEST SHALL WITNESS
11 THE RESETTING OF EACH DEVICE THAT PASSED TO A PREELECTION STATE OF
12 READINESS AND THE SEALING OF EACH DEVICE THAT PASSED SO AS TO SECURE ITS
13 STATE OF READINESS UNTIL THE OPENING OF THE POLLS.

14 H. THE ACCURACY BOARD OR ITS REPRESENTATIVE SHALL EXECUTE A WRITTEN
15 STATEMENT SETTING FORTH THE TABULATION DEVICES TESTED, THE RESULTS OF THE
16 TESTING, THE PROTECTIVE COUNTER NUMBERS OF EACH TABULATION DEVICE, IF
17 APPLICABLE, THE NUMBER OF THE SEAL SECURING EACH TABULATION DEVICE AT THE
18 CONCLUSION OF TESTING, ANY PROBLEMS REPORTED TO THE BOARD AS A RESULT OF
19 THE TESTING AND WHETHER EACH DEVICE TESTED IS SATISFACTORY OR
20 UNSATISFACTORY.

21 I. ANY TABULATING DEVICE DEEMED UNSATISFACTORY SHALL BE RECODED,
22 REPAIRED OR REPLACED AND SHALL BE MADE AVAILABLE FOR RETESTING. THAT
23 DEVICE MUST BE DETERMINED BY THE ACCURACY BOARD OR ITS REPRESENTATIVE TO BE
24 SATISFACTORY BEFORE IT MAY BE USED IN ANY ELECTION. THE ACCURACY BOARD OR
25 ITS REPRESENTATIVE SHALL ANNOUNCE AT THE CLOSE OF THE FIRST TESTING THE
26 DATE, PLACE AND TIME THAT ANY UNSATISFACTORY DEVICE WILL BE RETESTED OR, AT
27 THE OPTION OF THE BOARD, MAY NOTIFY BY TELEPHONE EACH PERSON WHO WAS
28 PRESENT AT THE FIRST TESTING AS TO THE DATE, PLACE AND TIME THAT THE
29 RETESTING WILL OCCUR.

30 J. THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL KEEP RECORDS OF
31 ALL PREELECTION TESTING OF ELECTRONIC OR ELECTROMECHANICAL TABULATION
32 DEVICES USED IN ANY ELECTION. THESE RECORDS ARE TO BE PRESENT AND

1 AVAILABLE FOR INSPECTION AND REFERENCE DURING PUBLIC PREELECTION TESTING BY
2 ANY PERSON IN ATTENDANCE DURING SUCH TESTING. THE NEED OF THE ACCURACY
3 BOARD FOR ACCESS TO SUCH RECORDS DURING THE TESTING TAKES PRECEDENCE OVER
4 THE NEED OF OTHER ATTENDEES TO ACCESS THOSE RECORDS SO THAT THE WORK OF THE
5 ACCURACY BOARD WILL NOT BE DELAYED OR HINDERED. RECORDS OF TESTING MUST
6 INCLUDE FOR EACH DEVICE THE NAME OF EACH PERSON WHO TESTED THE DEVICE AND
7 THE DATE, PLACE, TIME AND RESULTS OF EACH TEST. THE COUNTY OFFICER IN
8 CHARGE OF ELECTIONS SHALL RETAIN THE RECORDS OF TESTING AS PART OF THE
9 OFFICIAL RECORDS OF THE ELECTION IN WHICH ANY DEVICE WAS USED.

10 K. ANY TESTS CONDUCTED PURSUANT TO THIS SECTION THAT INVOLVE BALLOTS
11 SHALL EMPLOY TEST BALLOTS CREATED BY THE COUNTY OFFICER IN CHARGE OF
12 ELECTIONS USING ACTUAL BALLOTS THAT HAVE BEEN PRINTED FOR THE ELECTION. IF
13 BALLOT-ON-DEMAND BALLOTS WILL BE USED IN THE ELECTION, THE COUNTY OFFICER
14 IN CHARGE OF ELECTIONS SHALL ALSO CREATE TEST BALLOTS USING THE
15 BALLOT-ON-DEMAND TECHNOLOGY THAT WILL BE USED TO PRODUCE BALLOTS IN THE
16 ELECTION, USING THE SAME PAPER STOCK AS WILL BE USED FOR BALLOTS IN THE
17 ELECTION.

18 L. A PERSON WHO:

19 1. TAMPERS WITH, OPENS, BREAKS OR OTHERWISE REMOVES THE SEALS ON A
20 DEVICE WITHOUT AUTHORIZATION AS PRESCRIBED BY THIS SECTION IS GUILTY OF A
21 CLASS 6 FELONY.

22 2. TAMPERS WITH, OPENS, BREAKS OR OTHERWISE REMOVES THE SEALS AND
23 REPROGRAMS A TESTED DEVICE WITHOUT AN ADDITIONAL LOGIC AND ACCURACY TEST
24 CONDUCTED AS PRESCRIBED BY THE SECTION IS GUILTY OF A CLASS 4 FELONY."

25 Amend title to conform

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